

EXHIBIT 2

Letter from Secretary of Defense Lloyd Austin
to Sen. Roger Wicker (Sept. 5, 2023)



SECRETARY OF DEFENSE
1000 DEFENSE PENTAGON
WASHINGTON, DC 20301-1000

SEP 05 2023

The Honorable Roger F. Wicker
United States Senate
Washington, DC 20510

Dear Senator Wicker:

Thank you for your August 22, 2023 letter regarding the disposition of remaining materials from border barrier construction contracts, including general construction materials and finished bollard panels.¹

Pursuant to Presidential Proclamation 10142, "Termination of Emergency With Respect to the Southern Border of the United States and Redirection of Funds Diverted to Border Wall Construction," issued on January 20, 2021, the Department of Defense (DoD) canceled its border barrier construction contracts and began disposing of unused, excess construction materials in accordance with the Federal Property Management Regulations and DoD Manual (DoDM) 4160.21, "Defense Materiel Disposition: Disposal Guidance and Procedures," Vol 1.

Consistent with the standard disposition process under the regulations and DoDM identified above, the Defense Logistics Agency (DLA) has sought to dispose of certain unused, excess construction materials by offering them in phased cycles: first, to DoD and to DoD-designated special programs (*i.e.*, Federal, State, and local law enforcement and firefighting agencies); second, to other Federal departments and agencies; third, to State and local government agencies and non-profit organizations; and fourth, on a first come, first-serve basis, for a final "last chance" opportunity to all of the entities described in the steps above that are eligible to claim the materials. Following these offerings, and pursuant to standard disposition procedures, remaining unclaimed materials are eligible for sale to the public.

Since terminating border wall construction, DoD has disposed of more than \$154 million worth of excess general construction materials, including the steel tubes referenced in your letter. These steel tubes were made available to State governments pursuant to the standard DLA disposition process, and unclaimed materials were auctioned. Enclosures 1 and 2 provide further information concerning the disposition and storage of remaining construction materials.

With respect to the steel tubes referenced in your August 22, 2023 letter, a commercial entity acquired those steel tubes through a competitive contract with DLA to be sold at auction. Following the sale at auction, the property is transferred to the possession of the buyer. The U.S. Government lacks the authority to suspend subsequent transfers by the initial or subsequent

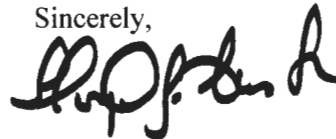
¹ General construction materials are raw inputs such as wood, concrete, cement, aggregates, metal, cameras, electronic cables, and the steel tubes referenced in your letter. Finished bollard panels are barriers assembled from certain general construction materials (*i.e.*, bollards, which are made using hollow steel tubes partially filled with concrete and rebar and mounted in a steel frame).

buyers. The transfer of title by DoD occurred months before the inclusion of House- and Senate-adopted provisions regarding excess border wall construction materials in either version of the Fiscal Year (FY) 2024 National Defense Authorization Act (NDAA). If enacted, those provisions will direct the Secretary of Defense to submit to Congress a plan to utilize, transfer, or donate to States on the southern border of the United States any remaining excess border wall construction materials. The Department will act in accordance with the law.

The Department remains committed to transparency with Congress about the cancellation of southern border barrier contracts, including the disposition and storage of unused construction materials. For example, in addition to her August 1, 2023 response letter, since March, the Assistant Secretary of Defense for Homeland Defense and Hemispheric Affairs has briefed staff from both the House and Senate Armed Services Committees three times in accordance with section 1070 of the FY 2023 NDAA (Public Law 117-263) and provided an additional briefing to Senate Armed Services Committee Minority staff at their request on July 26, 2023. I have full faith and confidence in the Assistant Secretary.

Thank you for your support of the Department of Defense. I am sending identical responses to the other signatories of your letter.

Sincerely,



Enclosures:
As stated

ENCLOSURE 1

Department of Defense disposal of border wall construction materials thus far.

Your August 22 2023 letter refers to excess border wall construction materials that were scheduled to be auctioned on August 23, 2023, and August 30, 2023.

Consistent with applicable laws and regulations, these steel tubes went through the standard Defense Logistics Agency (DLA) disposition process. During the second cycle of this process, approximately 3,749 steel tubes were claimed by the Department of the Interior's Bureau of Indian Affairs and the Department of Agriculture. During the third cycle, and again during the fourth cycle of the disposition process, State and local governments were offered the opportunity to claim these steel tubes. Although the States of Arkansas, California, and Missouri each claimed, and received donations of, steel tubes, no other State or local government agency claimed these tubes. The steel tubes then completed final screening on January 25, 2023.

As is standard practice, DLA sold the remaining, unclaimed steel tubes to Iron Planet through a competitive surplus property sales contract in which Iron Planet was the highest bidder for the DoD excess property. Title to the property transferred to Iron Planet at the end of April 2023, when a Delivery Order was signed. The steel tubes purchased by Iron Planet were scheduled for pickup between May 16, 2023, and July 13, 2023, and transported by Iron Planet to their facility prior to being placed for auction.

Prices paid for materials

At the end of the disposition process, DoD had 14,795 steel tubes remaining. DLA estimates that these tubes were purchased by the U.S. Government for approximately \$4.4 million, though a final value will only be ascertained once contracts have completed the audit and termination processes. Iron Planet purchased the remaining tubes for approximately \$156,000.

Storage of materials

The entities who have been storing and securing excess materials are the same contractors who were constructing border barriers. Please refer to Enclosure 2 for the identity of these entities and the locations where excess materials have been stored.

Cost of storage of materials

As explained in the Assistant Secretary of Homeland Defense and Hemispheric Affairs' August 1, 2023 letter, the Army can only generate estimates because it pays its vendors once a contract has closed out, based on a review of documented and audited costs. As such, the Army's estimates of the cost of storage at various points in time change. In May 2023, the Army estimated that storage costs to the U.S. Government were approximately \$160,000 per month. The cost of storage decreased substantially over time as excess general construction material and assembled bollard panels were disposed of, in accordance with the standard DLA process. The cost of storage is expected to continue to decrease over the course of the termination process.

ALL PROJECT STORAGE LOCATIONS	
Barnard Construction (BFBC)	Yuma, AZ
	Campo, CA
	Calexico, CA
	El Centro, CA
	Barry M. Goldwater Range, AZ
CJW Construction	San Diego, CA
Sullivan Land Services Co. (SLSCO)	Columbus, NM
	West of Columbus, NM
	West of El Paso, TX
	El Paso, TX
	El Paso, TX
	Yuma, AZ
	Antelope Wells, NM
Fisher Sand & Gravel Co.	South of Wellton, AZ
	Coolidge, AZ
	Sasabe, AZ
	Nogales, AZ
	El Paso, TX
Southwest Valley Constructors (SWVC)	Lukeville, AZ
	Naco, AZ
	Douglas, AZ
LGC Global Corp.	Burnett, TX
	Del Rio, TX
	Eagle Pass, TX
CURRENT STORAGE LOCATIONS	
Sullivan Land Services Co. (SLSCO)	Columbus, NM
	West of Columbus, NM
	West of El Paso, TX
	El Paso, TX
	El Paso, TX
	Yuma, AZ
	Antelope Wells, NM
Fisher Sand & Gravel Co.	Coolidge, AZ
	Sasabe, AZ
	Nogales, AZ
Southwest Valley Constructors (SWVC)	Lukeville, AZ
	Naco, AZ
	Douglas, AZ
LGC Global Corp.	Burnett, TX